

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Gridley Telephone Co.	:	04-0180
Flat Rock Telephone Co-Op, Inc.	:	04-0181
Cambridge Telephone Co.	:	04-0182
Henry County Telephone Co.	:	04-0183
LaHarpe Telephone Co.	:	04-0184
Hamilton County Telephone Co-Op	:	04-0185
McDonough Telephone Cooperative, Inc.	:	04-0186
Moultrie Independent Telephone Co.	:	04-0189
Diverse Communications, Inc.	:	04-0192
Glasford Telephone Co.	:	04-0193
Viola Home Telephone Co.	:	04-0194
New Windsor Telephone Co.	:	04-0195
Montrose Mutual Telephone Co.	:	04-0196
Woodhull Community Telephone Co.	:	04-0197
Leaf River Telephone Co.	:	04-0198
Oneida Network Services, Inc.	:	04-0199
Oneida Telephone Exchange	:	04-0200
McNabb Telephone Co.	:	04-0205
Reynolds Telephone Co.	:	04-0206
Adams Telephone Co-Op	:	04-0228
Cass Telephone Co.	:	04-0232
Shawnee Telephone Co., Inc.	:	04-0236
C-R Telephone Co.	:	04-0237
The El Paso Telephone Co.	:	04-0238
Odin Telephone Exchange, Inc.	:	04-0239
Yates City Telephone Co.	:	04-0240
Kinsman Mutual Telephone Co.	:	04-0243
Stelle Telephone Co.	:	04-0248
Mid-Century Telephone Co-Op, Inc.	:	04-0249
Wabash Telephone Co-Op, Inc.	:	04-0253
Leonore Mutual Telephone Co.	:	04-0259
Grandview Mutual Telephone Co.	:	04-0282
The Crossville Telephone Co.	:	04-0283
Marseilles Telephone Co.	:	04-0365
Metamora Telephone Co.	:	04-0366
Grafton Telephone Co.	:	04-0367
	:	
Petitions for Suspension or Modification of Section	:	(Cons.)
251(b)(2) Requirements of the Federal	:	
Telecommunications Act Pursuant to Section 251(f)(2)	:	
of said Act; for entry of Interim Order; and for other	:	
necessary relief.	:	

ORDER ON REOPENING

By the Commission:

On either August 25, 2004 or October 6, 2004, the Illinois Commerce Commission ("Commission") entered an Order in each of the above captioned matters

(collectively “the 2004 Orders”)¹ suspending until January 1, 2006 any obligation of the petitioning local exchange carriers (collectively “Petitioners”) to provide wireline-to-wireless local number portability (“LNP”). Section 251(b)(2) of the Federal Telecommunications Act of 1996 (“TA96”), 47 U.S.C. 151 et seq., establishes the obligation to provide LNP. The Commission granted the suspension pursuant to Section 251(f)(2) of TA96.

From March 22 through March 29, 2005, each of the Petitioners filed a petition asking the Commission to reopen each docket and enter an amendatory order extending the suspension until January 1, 2007 or until otherwise ordered by the Commission. In support of their respective requests for an extension of the suspensions, the Petitioners claim that the circumstances upon which the Commission granted the original suspensions have not changed. They assert that there has been no substantial increase in demand for wireline-to-wireless LNP and no change in the regulatory uncertainties regarding cost recovery. They add that due to a recent decision by the D. C. Circuit Court of Appeals in United States Telecom Association v. Federal Communications Commission, Slip Opinion, Docket No. 03-1414 (March 11, 2005) (“USTA”), it is unlikely that there will be any new information on demand rates in the foreseeable future. Although the Circuit Court generally upheld the Federal Communications Commission’s (“FCC”) order requiring wireline-to-wireless LNP,² it found that the FCC had failed to conduct a required analysis under the Regulatory Flexibility Act (“RFA”), 5 U.S.C. 604, regarding the impact of the FCC’s order on small entities, specifically small local exchange carriers such as Petitioners. The Circuit Court remanded the order back to the FCC and stayed future enforcement of the order against carriers that are “small entities” under the RFA until the FCC prepares and publishes the final RFA analysis. Because the Commission’s Orders granting the suspensions establish an affirmative obligation to provide wireline-to-wireless LNP by January 1, 2006, Petitioners believe that a direct conflict will exist between the Commission’s Orders and the Circuit Court’s decision staying enforcement of the FCC’s order if the final RFA analysis is not complete by January 1, 2006.

In light of the potential conflict between the 2004 Orders and the USTA decision, on April 26, 2005 the Commission reopened each of the dockets for the limited purpose of considering how long any further extension of the suspension period need be to avoid any conflict between the 2004 Orders and the stay imposed in the USTA decision. Pursuant to due notice, a hearing was held in this matter before a duly authorized Administrative Law Judge of the Commission at its offices in Springfield on May 10, 2005. Appearances were entered by counsel for each of the Petitioners, Commission Staff (“Staff”), and Verizon Wireless (“VW”). Given the commonality of the issue on reopening, the dockets have been consolidated.

¹ The Orders in all but the last three dockets (Docket Nos. 04-0365, 04-0366, and 04-0367) were entered on August 25, 2004. The Orders in the last three dockets were entered on October 6, 2004.

² Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, CC Docket No. 95-116, FCC 03-284 (Released November 10, 2003).

At the May 10, 2005 hearing, VW proposed a solution to the question posed by the Commission on reopening. When USTA was decided on March 11, 2005, 295 days remained before the suspension period enjoyed by Petitioners ended. VW proposes that upon the lifting of the stay ordered by the Circuit Court, the Commission and the parties begin counting 295 days. At the end of the 295th day, VW proposes that Petitioners' suspensions end as well. Petitioners and Staff agreed to VW's proposal at the hearing. Although VW has not intervened in all of the dockets, the Commission believes that the extensions should be handled in a uniform manner. The Commission finds VW's proposal reasonable and efficient for all of the dockets.

The Commission, having considered the record herein, is of the opinion and finds that:

- (1) Petitioners provide local exchange telecommunications services as defined in Section 13-204 of the Act;
- (2) the Commission has jurisdiction over the parties hereto and the subject matter hereof;
- (3) the facts recited and conclusions reached in the prefatory portion of this Order are supported by the record and are hereby adopted as findings of fact and law;
- (4) Petitioners' suspension of any wireline-to-wireless LNP obligations applicable to them under Section 251(b)(2) of the TA96 should be extended 295 days from the date that the stay imposed in the USTA decision is lifted;
- (5) nothing in this Order on Rehearing should be construed as limiting any of the Petitioners' right to seek a further suspension of any obligation to provide wireline-to-wireless LNP; and
- (6) the Commission's 2004 Orders remain in full force and effect in all other respects.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that each of the Petitioner's suspension of any obligation to provide wireline-to-wireless local number portability is hereby extended 295 days from the date that the stay imposed by the D. C. Circuit Court of Appeals in United States Telecom Association v. Federal Communications Commission is lifted.

IT IS FURTHER ORDERED that the Orders entered in these matters on August 25, 2004 or October 6, 2004 remain in full force and effect in all other respects.

IT IS FURTHER ORDERED that subject to the provisions of 83 Ill. Adm. Code 200.880, this Order on Reopening is final; it is not subject to the Administrative Review Law.

By order of the Commission this 2nd day of June, 2005.

(SIGNED) EDWARD C. HURLEY

Chairman